

Senate Bill No. 67

Passed the Senate September 5, 2007

Secretary of the Senate

Passed the Assembly August 30, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to repeal and add Section 23109.2 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 67, Perata. Vehicles: speed contests and reckless driving.

Existing law, as of January 1, 2007, allows a peace officer to arrest and take into custody a person that a peace officer determines was engaged in a motor vehicle speed contest and permits the peace officer to cause the removal and seizure of the motor vehicle used in the contest, in accordance with specified statutory procedures. A vehicle impounded under these provisions is required to be impounded for not more than 30 days, with specified exceptions. Existing law permits the release of the motor vehicle prior to the end of the impoundment period in specified circumstances. Existing law makes the registered owner or his or her agent responsible for, among other things, all towing and storage charges related to the impoundment and any authorized administrative charges, except under specified circumstances.

This bill, the U'Kendra K. Johnson Memorial Act, would extend those provisions to persons engaged in reckless driving on a highway, reckless driving in an offstreet parking facility, or an exhibition of speed on a highway. It would require the impounding agency to release the vehicle to the registered owner prior to the conclusion of the impoundment period if the registered owner was neither the driver nor a passenger in the vehicle at the time of the alleged violation, or was unaware that the vehicle was being used to engage in the prohibited activities.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 23109.2 of the Vehicle Code is repealed.

SEC. 2. This act shall be known and may be cited as the U'Kendra K. Johnson Memorial Act.

SEC. 3. Section 23109.2 is added to the Vehicle Code, to read:

23109.2. (a) (1) Whenever a peace officer determines that a person was engaged in any of the activities set forth in paragraph (2), the peace officer may immediately arrest and take into custody that person and may cause the removal and seizure of the motor vehicle used in that offense in accordance with Chapter 10 (commencing with Section 22650). A motor vehicle so seized may be impounded for not more than 30 days.

(2) (A) A motor vehicle speed contest, as described in subdivision (a) of Section 23109.

(B) Reckless driving on a highway, as described in subdivision (a) of Section 23103.

(C) Reckless driving in an offstreet parking facility, as described in subdivision (b) of Section 23103.

(D) Exhibition of speed on a highway, as described in subdivision (c) of Section 23109.

(b) The registered and legal owner of a vehicle removed and seized under subdivision (a) or their agents shall be provided the opportunity for a storage hearing to determine the validity of the storage in accordance with Section 22852.

(c) (1) Notwithstanding Chapter 10 (commencing with Section 22650) or any other provision of law, an impounding agency shall release a motor vehicle to the registered owner or his or her agent prior to the conclusion of the impoundment period described in subdivision (a) under any of the following circumstances:

(A) If the vehicle is a stolen vehicle.

(B) If the person alleged to have been engaged in the motor vehicle speed contest, as described in subdivision (a), was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense.

(C) If the registered owner of the vehicle was neither the driver nor a passenger of the vehicle at the time of the alleged violation pursuant to subdivision (a), or was unaware that the driver was using the vehicle to engage in any of the activities described in subdivision (a).

(D) If the legal owner or registered owner of the vehicle is a rental car agency.

(E) If, prior to the conclusion of the impoundment period, a citation or notice is dismissed under Section 40500, criminal

charges are not filed by the district attorney because of a lack of evidence, or the charges are otherwise dismissed by the court.

(2) A vehicle shall be released pursuant to this subdivision only if the registered owner or his or her agent presents a currently valid driver's license to operate the vehicle and proof of current vehicle registration, or if ordered by a court.

(3) If, pursuant to subparagraph (E) of paragraph (1) a motor vehicle is released prior to the conclusion of the impoundment period, neither the person charged with a violation of subdivision (a) of Section 23109 nor the registered owner of the motor vehicle is responsible for towing and storage charges nor shall the motor vehicle be sold to satisfy those charges.

(d) A vehicle seized and removed under subdivision (a) shall be released to the legal owner of the vehicle, or the legal owner's agent, on or before the 30th day of impoundment if all of the following conditions are met:

(1) The legal owner is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or is another person, not the registered owner, holding a security interest in the vehicle.

(2) The legal owner or the legal owner's agent pays all towing and storage fees related to the impoundment of the vehicle. No lien sale processing fees shall be charged to a legal owner who redeems the vehicle on or before the 15th day of impoundment.

(3) The legal owner or the legal owner's agent presents foreclosure documents or an affidavit of repossession for the vehicle.

(e) (1) The registered owner or his or her agent is responsible for all towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5.

(2) Notwithstanding paragraph (1), if the person convicted of engaging in the activities set forth in paragraph (2) of subdivision (a) was not authorized by the registered owner of the motor vehicle to operate the motor vehicle at the time of the commission of the offense, the court shall order the convicted person to reimburse the registered owner for any towing and storage charges related to the impoundment, and any administrative charges authorized under Section 22850.5 incurred by the registered owner to obtain possession of the vehicle, unless the court finds that the person

convicted does not have the ability to pay all or part of those charges.

(3) If the vehicle is a rental vehicle, the rental car agency may require the person to whom the vehicle was rented to pay all towing and storage charges related to the impoundment and any administrative charges authorized under Section 22850.5 incurred by the rental car agency in connection with obtaining possession of the vehicle.

(4) The owner is not liable for any towing and storage charges related to the impoundment if acquittal or dismissal occurs.

(5) The vehicle may not be sold prior to the defendant's conviction.

(6) The impounding agency is responsible for the actual costs incurred by the towing agency as a result of the impoundment should the registered owner be absolved of liability for those charges pursuant to paragraph (3) of subdivision (c). Notwithstanding this provision, nothing shall prohibit impounding agencies from making prior payment arrangements to satisfy this requirement.

(f) Any period when a vehicle is subjected to storage under this section shall be included as part of the period of impoundment ordered by the court under subdivision (h) of Section 23109.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public from the consequences of reckless driving on a highway or in an offstreet parking facility and exhibitions of speed on a highway at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2007

Governor